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Type of Instrument: JUDGMENT OF FORECLOS

Recorded: 1/8/2019

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Index Number: 15 604075 Sequence Number: 123

Plaintiff(s) :

THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR T
HE CERTIFICATEHOLDERS OF T...

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Defendant(s) :

SCHEUER, ELIZABETH

Attorney(s) :

TAX_MAP_NO:

Liber Page(s):
M00021411-848

ADDITIONAL INFORMATION EXISTS PLEASE SEE DOCUMENT
THIS PAGE IS A PART OF THE INSTRUMENT
THIS IS NOT A BILL

Judith A. Pascale
County Clerk, Suffolk County

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21411 848

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MOT. 003 MG
MOT. 004 - MD

At a Term of the Supreme Court, of the State of New York held in and for the County of Suffolk, at the Suffolk County Courthouse, Riverhead, New York, on the 19th day of December 2018

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PRESENT: HON. JOHN H. ROUSE, ACTING J.S.C.

ENTERED: JAN 08 2019
AT: 10:24 am

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JUSTICE OF THE SUPREME COURT

INDEX NO.: 604075/2015

**THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-21**

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Plaintiff,

-vs-

**ELIZABETH SCHEUER A/K/A ELIZABETH MERO SCHEUER A/K/A ELIZABETH A. MERO A/K/A ELIZABETH GRILLO;**
**HEATHER MIGNONE;**
**KEVIN CAJOWSKI;**
**OSCAR MERO;**
**EGNITA MERO;**

Defendants.

**ORDER VACATING PREVIOUS JUDGMENT OF FORECLOSURE AND SALE AND ORDER GRANTING NEW JUDGMENT OF FORECLOSURE AND SALE**

MORTGAGED PROPERTY:
1393 Ackerson Blvd
Bay Shore, (Town of Islip) NY 11706

SBL#: 0500-314.00-01.00-004.000

No Directive

UPON the Summons, Complaint, and Notice of Pendency filed in this action on April 20, 2015, the affirmation of Maisha M. Blakeney, Esq. and the exhibits annexed thereto, the affidavit of the Plaintiff by Daryl Wilson who is Foreclosure Specialist of New Penn Financial, LLC d/b/a Shellpoint Mortgage Servicing as servicer for THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-21, duly sworn to on September 13, 2017, together with the exhibits annexed thereto, all in support of Plaintiff's motion for a Judgment of Foreclosure and Sale; and

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UPON proof that each of the defendants herein has been duly served with the Summons and Complaint in this action, and either has voluntarily appeared either personally or by an attorney or has not served any answer to the Complaint or otherwise appeared, nor had their time to do so extended; and it appearing that more than the legally required number of days has

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elapsed since defendants ELIZABETH SCHEUER A/K/A ELIZABETH MERO SCHEUER A/K/A ELIZABETH A. MERO A/K/A ELIZABETH GRILLO, HEATHER MIGNONE, KEVIN CAJOWSKI, OSCAR MERO, and EGNITA MERO were so served and/or appeared;

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and Plaintiff having established to the court's satisfaction that a judgment against defendants is warranted; and

UPON the affidavit of mailing reflecting compliance with CPLR §3215(g)(3)(iii); and

UPON proof that non-appearing defendants ELIZABETH SCHEUER A/K/A ELIZABETH MERO SCHEUER A/K/A ELIZABETH A. MERO A/K/A ELIZABETH GRILLO, HEATHER MIGNONE, KEVIN CAJOWSKI, OSCAR MERO, and EGNITA MERO are not absent, in accordance with RPAPL §1321(2); and

UPON a Referee having been appointed to compute the amount due to Plaintiff upon the bond/note and mortgage set forth in the Complaint and to examine whether the mortgaged property can be sold in parcels; and

UPON reading and filing the Report of Armand Araujo, Esq. dated November 6, 2017, showing the sum of $372,491.38 due as of September 8, 2017 and that the mortgaged property may not be sold in parcels; and

UPON proof of due notice of this motion upon all parties entitled to receive same, and upon all the prior proceedings and papers filed herein;

NOW, on motion by Maisha M. Blakeney, Esq., attorney for Plaintiff, it is hereby

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ORDERED, ADJUDGED AND DECREED that the motion is granted; and it is further

ORDERED, ADJUDGED, AND DECREED that the Judgment of Foreclosure and Sale granted on July 30, 2018 and filed on August 9, 2018 be vacated as the incorrect legal description was included. The Judgment of Foreclosure and Sale herein includes the correct legal description; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee's Report be, and the same is, hereby in all respects ratified and confirmed; and it is further

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ORDERED, ADJUDGED AND DECREED that the mortgaged property described in the Complaint and as hereafter described, or such part thereof as may be sufficient to discharge the mortgage debt, the expenses of the sale, and the costs of this action as provided by the RPAPL be sold, within 90 days of the date of this Judgment, in one parcel, at a public auction at the *the front steps of the Islip Town Hall at 655 Main St, Islip, NY 11751*, Suffolk County, New York, by and under the direction of Armand Araujo, Esq. who is hereby appointed Referee for that purpose; that said Referee give public notice of the time and place of sale in accordance with RPAPL §231 in: *the Islip Bulletin*; and it is further

ORDERED, ADJUDGED AND DECREED that by accepting this appointment, the Referee certifies that he/she is in compliance with Part 36 of the Rules of the Chief Judge (22 NYCRR Part 36), including, but not limited to 36.2(c)("Disqualifications from appointment") and 36.2(d)("Limitations on appointments based upon compensation"); and, if the Referee is disqualified from receiving an appointment pursuant to the provisions of that Rule, the Referee shall immediately notify the Appointing Judge; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee is prohibited from accepting or retaining any funds for him/herself or paying funds to him/herself without compliance with Part 36 of the Rules of the Chief Administrative Judge; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee shall conduct the foreclosure sale only if Plaintiff, its successors and/or assignees, or its representative is present at the sale or the Referee has received a written bid and Terms of Sale from Plaintiff, its successors and/or assigns, or its representative; and it is further

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ORDERED, ADJUDGED AND DECREED that if the Referee does not conduct the sale within 90 days of the date of the judgment, in accordance with CPLR §2004, the time fixed by RPAPL §1351(1) is extended for the Referee to conduct the sale as soon as reasonably practicable; and it is further

ORDERED, ADJUDGED AND DECREED that at the time of sale the Referee shall accept a written bid from the Plaintiff or the Plaintiff's attorney, just as though Plaintiff were physically present to submit said bid, and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall accept the highest bid offered by a bidder who shall be identified upon the court record, and shall require that the successful bidder immediately execute Terms of Sale for the purchase of the property, and pay to the Referee, in cash or certified or bank check, then percent (10%) of the sum bid, unless the successful bidder is Plaintiff in which case no deposit against the purchase price shall be required; and it is further

ORDERED, ADJUDGED AND DECREED that in the event the first successful bidder fails to execute the Terms of Sale immediately following the bidding upon the subject property

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fails to immediately pay the ten percent (10%) deposit as required, the property shall immediately and on the same day be reoffered at auction; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee shall then deposit the down payment and proceeds of sale, as necessary, in *his IOLA account* in his/her own name as Referee, in accordance with CPLR §2609; and it is further

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ORDERED, ADJUDGED AND DECREED that after the property is sold, the Referee shall execute a deed to the purchaser, in accordance with RPAPL §1353 and the terms of sale which shall be deemed a binding contract; and it is further

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ORDERED, ADJUDGED AND DECREED that in the event a party other than the Plaintiff becomes the purchaser at the sale, the closing of title shall be held no later than 30 days after the date of such sale unless otherwise stipulated by all parties to the sale; and it is further

ORDERED, ADJUDGED AND DECREED that if Plaintiff (or its affiliate, as defined in paragraph (a) of subdivision 1 of section s-1 of the Banking Law) is the purchaser, such party shall place the property back on the market for sale or other occupancy: (a) within 180 days of the execution of the deed of sale, or (b) within 90 days of completion of construction, renovation, or rehabilitation of the property, provided that such construction, renovation, or rehabilitation proceeded diligently to completion, whichever comes first, provided however, that a court of competent jurisdiction may grant an extension for good cause; and it is further

ORDERED, ADJUDGED AND DECREED that the Referee, on receiving the proceeds of such sale, shall forthwith pay therefrom, in accordance with their priority according to law, all taxes, assessments, sewer rents, or water rates, which are, or may become, liens on the property at the time of sale, with such interest or penalties which may have lawfully accrued thereon to the date of payment; and it is further

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ORDERED, ADJUDGED AND DECREED that the Referee then deposit the balance of said proceeds of sale in her/his own name as Referee in *his IOLA account*, and shall thereafter make the following payments in accordance with RPAPL §1354, as follows:

FIRST: The Referee's statutory fees for conducting the sale, in accordance with CPLR §8003(b), not to exceed $500.00 unless ~~the property sells for $50,000.00 or more or~~ in the event a sale was cancelled or postponed, Plaintiff shall compensate the Referee in the sum of $ 250.00 for each adjournment or cancellation, unless the Referee caused the delay;

SECOND: All taxes, assessments, and water rates that are liens upon the property and monies necessary to redeem the property from any sales for unpaid taxes, assessments, or water rates that have not become absolute, and any other amounts due in accordance with RPAPL §1354(2). Purchaser shall be responsible for interest and penalties due on any real property taxes accruing after the sale. The Referee shall not be responsible for the payment of penalties or fees pursuant to this appointment. The Purchaser shall hold the Referee harmless from any such penalties or fees assessed;

THIRD: The expenses of the sale and the advertising expenses as shown on the bills presented and certified by said Referee to be correct, duplicate copies of which shall be annexed to the report of sale;

FOURTH: The Referee shall then pay to the Plaintiff or its attorney the following:

Amount Due per Referee's Report: $372,491.38 with interest at the note rate from December 1, 2009 until September 8, 2017, together with any advances

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as provided for in the note and mortgage which Plaintiff has made for taxes, insurance, principal, and interest, and any other charges due to prior mortgages or to maintain the property pending consummation of this foreclosure sale, not previously included in the computation, upon presentation of receipts for said expenditures to the Referee, all together with interest thereon pursuant to the note and mortgage, and then with interest from the date of entry of this judgment at the statutory rate until the date the deed is transferred;

Costs and Disbursements: $ 3,705.ca ~~$3,705.00~~ adjudged to the Plaintiff for costs and disbursements in this action (~~add if applicable~~, as taxed or calculated by the Clerk and inserted herein), with interest at the statutory judgment rate from the date of entry of this judgment;

Additional Allowance: $ 0.00 is hereby awarded to Plaintiff in addition to costs, with interest at the statutory judgment rate from the date of entry of this judgment, pursuant to CPLR Article 83;

Attorney Fees: $ 4,950.00 is hereby awarded to Plaintiff as reasonable legal fees herein, with interest at the statutory rate from the date of entry of this judgment;

FIFTH: Surplus monies arising from the sale shall be paid into court by the officer conducting the sale within five days after receipt in accordance with RPAPL §1354(4) and in accordance with local County rules regarding Surplus Monies; and it is further

ORDERED, ADJUDGED AND DECREED that if the Plaintiff is the purchaser of the property, or in the event that the rights of the purchasers at such sale and the terms of sale under

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this judgment shall be assigned to and be acquired by the Plaintiff, and a valid assignment thereof is filed with said Referee, said Referee shall not require Plaintiff to pay in cash the entire amount bid at said sale, but shall execute and deliver to the Plaintiff or its assignee, a deed or deeds of the property sold upon the payment to said Referee of the amounts specified in items marked "First", "Second", and "Third" above; that the Referee shall allow the Plaintiff to pay the amounts specified in "Second" and "Third" above when it is recording the deed; that the balance of the bid, after deducting the amounts paid by the Plaintiff, shall be applied to the amount due Plaintiff as specified in paragraph "Fourth" above; that Plaintiff shall pay any surplus after applying the balance of the bid to the Referee, who shall deposit it in accordance with paragraph "Fifth" above; and it is further

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ORDERED, ADJUDGED AND DECREED that all expenses of recording the Referee's deed, including real property transfer tax, which is not a lien upon the property at the time of sale, shall be paid by the purchaser, not by the Referee from sale proceeds, and that any transfer tax shall be paid in accordance with Tax Law 1404; and it is further

ORDERED, ADJUDGED AND DECREED that if the sale proceeds distributed in accordance with paragraphs "First," "Second," "Third," and "Fourth" above are insufficient to pay Plaintiff the Amount Due per the Referee's Report as set forth in paragraph "Fourth" above, Plaintiff may seek to recover a deficiency judgment against Elizabeth Mero Scheuer in accordance with RPAPL §1371 if permitted by law; and it is further

ORDERED, ADJUDGED AND DECREED that the mortgaged property is to be sold in one parcel in "as is" physical order and condition, subject to any condition that an inspection of the property would disclose; any facts that an accurate survey of the property would show; any covenants, restrictions, declarations, reservations, easements, right of way, and public utility

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agreements of record, if any; any building and zoning ordinances of the municipality in which the mortgaged property is located and possible violations of same; any rights of tenants or persons in possession of the subject property; prior liens of record, if any, except those liens addressed in RPAPL §1354; any equity of redemption of the United States of America to redeem property within 120 days from the date of sale; and any rights pursuant to CPLR §317, §2003, and §5015, or any appeal of the underlying action or additional litigation brought by any defendant or its successor or assignee contesting the validity of this foreclosure; and it is further

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ORDERED, ADJUDGED AND DECREED that the purchaser be let into possession of the property upon production in hand of the Referee's Deed or upon personal service of the Referee's deed in accordance with CPLR §308; and it is further

ORDERED, ADJUDGED AND DECREED that the Defendants in this action and all persons claiming through them and any person obtaining an interest in the property after the filing of the Notice of Pendency are barred and foreclosed of all right, claim, lien, title, and interest in the property after the sale of the mortgaged property; and it is further

ORDERED, ADJUDGED AND DECREED that within 30 days after completing the sale and executing the proper conveyance to the purchaser, unless the time is extended by the court, the officer making the sale shall file with the clerk a report under oath of the disposition of the proceeds of the sale in accordance with RPAPL §1355(1) and follow all local County rules regarding handling of Surplus Monies; and it is further

ORDERED, ADJUDGED AND DECREED that if the purchaser or purchasers at said sale default(s) upon the bid and/or the terms of sale the Referee may place the property for resale without prior application to the Court unless Plaintiff's attorneys shall elect to make such application; and it is further

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EXHIBIT A

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Islip, County of Suffolk, and State of New York, known and designated as part of lot 3004 and 3006 in Block 93 on a certain map entitled, "Map of Section C Parts 1, and 2, amended as to Part 1 in the Pines of Brightwaters and filed in the Suffolk County Clerk's office on September 20, 1909 as Map No. 34 said prt of lots when taken together are bounded and described as follows;

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BEGINNING at a point on the easterly side of Ackerson Boulevard 250 feet southerly from the corner formed by the intersection of the southerly side of Ontario Drive and the easterly side of Ackerson Boulevard;

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RUNNING THENCE North 88 degrees 40 minutes 45 seconds East 150 feet;

THENCE South 1 degree 19 minutes 15 seconds East 75 feet;

THENCE South 83 degrees 40 minutes 45 seconds West 150 feet to the easterly side of Ackerson Boulevard;

THENCE along the easterly side of Ackerson Boulevard, North 1 degree 19 minutes 15 seconds West 75 feet to the point or place of BEGINNING.

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ORDERED, ADJUDGED AND DECREED that Plaintiff shall serve a copy of this Judgment with Notice of Entry upon the owner of the equity of redemption, any tenants named in this action, and any other parties or person entitled to service, including the Referee appointed herein, and it is further

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ORDERED, ADJUDGED AND DECREED that nothing herein shall be deemed to relieve Plaintiff of any obligation imposed by RPAPL §1307 and RPAPL §1308 to secure and maintain the property until such time as ownership of the property has been transferred and the deed duly recorded; and it is further

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ORDERED, ADJUDGED AND DECREED that when the Referee files a report of sale, he or she shall concurrently file a Foreclosure Actions Surplus Monies Form; and it is further

ORDERED, ADJUDGED AND DECREED that to ensure compliance herewith, Plaintiff shall file a written report with the court within six months from the date of entry of this judgment stating whether the sale has occurred and the outcome thereof.

Said property is commonly known as 1393 Ackerson Blvd, Bay Shore, NY 11706.

The legal description of the mortgaged property referred to herein is annexed hereto as Schedule A.

ORDERED that Defendant's motion (004) by Order to Show Cause granted on October 18, 2018 to dismiss the action for lack of personal jurisdiction is denied as having been previously waived by the moving Defendant

DATED:

ENTER:

JOHN H. ROUSE, ACTING J.S.C.

GRANTED

DEC 19 2018

Judith A. Pascale
CLERK OF SUFFOLK COUNTY

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

**THE BANK OF NEW YORK MELLON FKA THE BANK OF NEW YORK, AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF THE CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2006-21**

Plaintiff,

-vs-

**ELIZABETH SCHEUER A/K/A ELIZABETH MERO SCHEUER A/K/A ELIZABETH A. MERO A/K/A ELIZABETH GRILLO;**
**HEATHER MIGNONE;**
**KEVIN CAJOWSKI;**
**OSCAR MERO;**
**EGNITA MERO;**

Defendants.

INDEX NO.: 604075/2015

**COSTS OF PLAINTIFF**

MORTGAGED PROPERTY:
1393 Ackerson Blvd
Bay Shore, (Town of Islip) NY
11706

SBL#: 0500-314.00-01.00-004.000

COST TAXED AT $ 3705.00
TIME _____ DAY OF _____
JAN - 8 2019
JUDITH A. PASCALE
CLERK OF SUFFOLK COUNTY

**COSTS**

| | | |
|---|---|---|
| Costs before Note of Issue - CPLR § 8201(1) | | $200.00 |
| Allowance by statute - CPLR § 8302(a)(b) | | $150.00 |
| First $200.00 at 10% | $20.00 | |
| Next $800.00 at 5% | $40.00 | |
| Next $2000.00 at 2% | $40.00 | |
| Next $5000.00 at 1% | $50.00 | |
| Additional Allowance - CPLR §8302(d) | | $50.00 |
| **Subtotal** | | $400.00 |

**FEES AND DISBURSEMENTS**

| | | |
|---|---|---|
| Fee for index number and Notice of Pendency - | CPLR §8018(a) | 825.00 |
| Referee's fee to compute, per order of the court - | CPLR §8003(a) | 250.00 |
| Paid for searches - | CPLR §8301(a)(10) | 0.00 |
| Serving copy of Summons and Complaint - | CPLR §8301(d) | 2,045.00 |
| Request for judicial intervention - | CPLR §8020(a) | 95.00 |
| Motion fees - | CPLR §8020(a) | 90.00 |
| **Subtotal** | | **$3,305.00** |
| **Total** | | **$3,705.00** |

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